

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WAYNE LEDERER,

Plaintiff,

v.

AVOTEC, INC.,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Wayne Lederer, for his complaint against defendant, Avotec, Inc., alleges as follows:

THE PARTIES

1. Plaintiff Wayne Lederer is an individual who lives at 200 Granada Street, Atlantic Beach, New York 11509-1027, within this judicial district.
2. The defendant in the Complaint, Avotec, Inc. ("Avotec"), is a Florida corporation with a principal place of business at 603 N.W. Buck Hendry Way, Stuart, Florida 34994.

JURISDICTION AND VENUE

3. This is an action for patent infringement under the laws of the United States, 35 U.S.C. § 271 *et seq.*
4. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338.
5. On information and belief, this Court has personal jurisdiction over defendant Avotec under the laws of New York, including but not limited to, N.Y. C.P.L.R. §§ 301 and 302, by virtue of, among other things, conducting a substantial, systematic and continuous business of offering to sell and selling goods and/or services in this judicial district, in New York State and elsewhere throughout the United States.

6. Venue is proper under 28 U.S.C. §§ 1391(b) and (c) and § 1400(b).

BACKGROUND

7. United States Patent No. 7,609,844 (“the ‘844 patent”) entitled “Noise Attenuating Headset,” was issued to Wayne Lederer on October 27, 2009, based on an application, filed on September 7, 2007. That patent application was based on and relies on a series of patent applications filed by Mr. Lederer dating back to October 27, 2003.

8. United States Reissue Patent No. RE43,595 (“the ‘595 patent”) entitled “Noise Attenuating Headset” was duly and legally reissued to Wayne Lederer on August 21, 2012, based on the ‘844 patent. A copy of the ‘595 patent is attached as Exhibit A. The ‘595 patent is entitled to a presumption of validity under 35 U.S.C. § 282.

9. Wayne Lederer is the owner of the entire right, title and interest in and to the ‘595 patent.

10. Wayne Lederer is an independent inventor and entrepreneur. Mr. Lederer invented and began developing the technology claimed in the ‘595 patent by 2003 in Nassau County, New York.

11. Avotec is in the business of providing accessories for use with magnetic resonance imaging (“MRI”) systems. To that end, Avotec is making, using, offering for sale, selling and/or importing magnetically inert, noise-attenuating headsets called “The Conformal Headset.” See <http://www.avotecinc.com/#!/conformal-headset/c1248>.

12. In 2015, Mr. Lederer called Avotec’s President, Paul Bullwinkel, to advise him about the ‘595 Patent and his concern that Avotec’s Conformal Headsets infringe the ‘595 Patent.

13. On or around December 3, 2015, at the Radiological Society of North America trade show in Chicago, Illinois, Mr. Lederer saw Avotec’s Conformal Headset at the Avotec booth and again advised Mr. Bullwinkel that he believed Avotec’s Conformal Headsets infringe the ‘595 Patent. Mr. Bullwinkel denied infringement.

14. Upon information and belief, Avotec is still selling its Conformal Headsets with full knowledge of the '595 Patent to the detriment of Mr. Lederer.

PATENT INFRINGEMENT

15. Mr. Lederer re-alleges and incorporates paragraphs 1 through 14 herein by reference.

16. Defendant Avotec has directly infringed one or more claims of the '595 patent, including at least claims 10, 17, 24 and 29, and is continuing to infringe one or more claims of the '595 patent, in violation of 35 U.S.C. § 271, by making, offering to sell, selling and/or using within the United States its Conformal Headset, which are noise attenuating headsets covered by one or more claims of the '595 patent.

17. Avotec's infringement has been and is being conducted with knowledge of the '595 patent.

18. Upon information and belief, defendant Avotec's infringement of the '595 patent has been willful and deliberate. Plaintiff has been and continues to be damaged and otherwise harmed by such willful infringement.

19. Plaintiff Wayne Lederer will be irreparably harmed unless Avotec's infringing activities are enjoined.

WHEREFORE, plaintiff Wayne Lederer prays for judgment and relief against defendant Avotec, including:

A. Adjudging that defendant Avotec has infringed the '595 patent;

B. Permanently enjoining Avotec and its President, Paul Bullwinkel, its other officers, agents, servants, employees, attorneys, all parent and subsidiary corporations, its assigns and successors in interest, and those persons in active concert or participation with any of them who receive notice of the injunction, including distributors and customers, from continuing acts of infringement of the '595 patent;

C. Adjudging that an accounting be had for damages caused by Avotec's infringement, together with pre-judgment and post-judgment interest;

D. Adjudging that Avotec is a willful infringer and trebling the aforesaid damages pursuant to 35 U.S.C. § 284;

E. Adjudging that this case is an exceptional case and awarding Mr. Lederer his costs, expenses and reasonable attorney's fees pursuant to 35 U.S.C. § 285; and

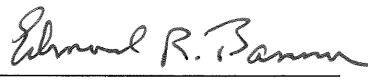
F. Such other and further relief as this Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff Wayne Lederer hereby demands a trial by jury as to all issues and causes of action which are so triable by right to a jury.

Respectfully submitted,

Dated: February 26, 2016

By: 
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